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CINDY LEE STOCK  
Nevada Bar No. 803  
915 East Bonneville Avenue  
Las Vegas, Nevada 89101  
(702)382-1399 Phone  
(702)382-0925 Fax  
bk-clstock@cox.net E-Mail

In Association With:  
MALCOLM ♦ CISNEROS, A Law Corporation  
2112 Business Center Drive  
Second Floor  
Irvine, California 92612  
Attorneys for WASHINGTON MUTUAL BANK

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:	)	Chapter 7
	)	
ISSAQ FEDA and	)	CASE NO. S- 09-20005-LBR
SVITA Y FEDA,	)	
	)	Hearing Date: September 9, 2009
Debtors.	)	Hearing Time: 9:30 a.m.
	)	
	)	Location: Foley Federal Building
	)	Courtroom No. 1

**MOTION FOR RELIEF FROM AUTOMATIC STAY**

Movant, WASHINGTON MUTUAL BANK and its successors and/or assigns ("WASHINGTON MUTUAL"), by and through Cindy Lee Stock, its attorney, hereby moves this Court pursuant to 11 U.S.C. § 362, for its Order Terminating Automatic Stay as it applies to certain real property located in Clark County, Nevada.

This Motion is based upon the attached Memorandum of Points and Authorities, and the 362 Information Sheet (attached as Exhibit "A"), as well as upon the documents filed in support of the Motion.

DATED this 10<sup>th</sup> day of August, 2009.

Respectfully Submitted,

/s/ Cindy Lee Stock  
CINDY LEE STOCK  
Nevada Bar No. 803  
915 East Bonneville Avenue  
Las Vegas, Nevada 89101  
Attorney for Secured Creditor,  
WASHINGTON MUTUAL BANK

## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTORY STATEMENT

WASHINGTON MUTUAL BANK, and its Successor and/or Assigns ("WASHINGTON MUTUAL"/"Movant") requests the Court to grant it relief from the automatic stay because there is little or no equity in the Property for the benefit of the Debtors or the estate and because the Debtors have indicated in their Chapter 7 Individual debtor's Statement of Intention that they are surrendering the Property.

### II. STATEMENT OF FACTS

1. **The Secured Debt.** The Debtors are the Trustors under a Note secured by a Deed of Trust against the real property commonly known as 4016 Featherstone Lane, Las Vegas, NV 89129 (the "Property"). The Debtors acknowledge the secured debt in their Schedules. True and correct copies of the Debtors' Schedules "A" and "D" are attached hereto as Exhibit "1."

2. **The Default Under The Note.** WASHINGTON MUTUAL's Note and Deed of Trust are contractually due for the August 1, 2008 payment. As a result of the default, WASHINGTON MUTUAL desires to record a Notice of Default against the Property. The total delinquency under the Note is set forth in detail on Exhibit "2" to the Motion.

3. **The Debtor's Interest In The Property.** The Debtors are the owners of record of the Property.

4. **The Filing Of The Instant Case.** On or about June 11, 2009, Issaq Feda and Svita Y. Feda filed a Chapter 13 Petition as Case No. S- 09-20005-lbr. On or about July 19, 2009, the case converted to a Chapter 7 Petition.

5. **The Total Indebtedness Under The Note.** The total indebtedness owed to WASHINGTON MUTUAL under the Note, exclusive of attorney fees, other miscellaneous costs and interest that continues to accrue is as follows:

Principal Balance	\$	103,148.59
Interest as of August 2009	\$	13,679.95
Late Charges	\$	540.90
Total Fees	\$	98.85
<b>TOTAL</b>	<b>\$</b>	<b>117,468.29</b>

6. **The Total Liens On The Property.** The Property is encumbered by the following liens:

SECURED CREDITOR	APPROXIMATE LIEN AMOUNT
1. HOMEQ First Deed of Trust	\$ 412,448.00
2. WASHINGTON MUTUAL BANK Second Deed of Trust	\$ 117,468.29
3. BANK OF AMERICA Third Deed of Trust	\$ 83,384.00
<b>Total Approximate Lien Amount</b>	<b>\$ 613,300.29</b>

7. **The Value Of The Property.** The amount owing and recorded against the Property (excluding costs of sale) is at least the sum of \$613,300.29. By the Debtors' own admission, the Property has a fair market value of \$252,500.00. Accordingly, the Property has little or no equity for the benefit of the Debtors or the estate. True and correct copies of the Debtors' Schedules A and D are attached hereto as Exhibit "1."

**III. RELIEF FROM STAY SHOULD BE GRANTED  
UNDER SECTION 362(d)(2) BECAUSE THE  
PROPERTY HAS LITTLE OR NO EQUITY.**

The evidence demonstrates that there is little or no equity in the property. By the Debtors' own admission, the Property has a fair market value of \$252,500.00 while the total indebtedness on the Property (excluding costs of sale) is \$613,300.29. Based on the foregoing, the stay should be terminated immediately. WASHINGTON MUTUAL has satisfied its burden under Section 362(d)(2).

**IV. REQUEST FOR JUDICIAL NOTICE.**

Pursuant to Rule 201 of the Federal Rules of Evidence, as made applicable herein by Rule 9017 of the Federal Rules of Bankruptcy Procedure, WASHINGTON MUTUAL requests that the Court take judicial notice of the following facts:

- The Debtors contend that the Property has a fair market value of \$252,500.00. *See:* Exhibit "1."
- The Debtors contend that there is a first lien on the Property. *See:* Exhibit "1."

1           3.       The Debtors contend that there is a third lien on the Property. *See:* Exhibit "1."

2           4.       The Debtors intend to surrender the Property. *See:* Exhibit "3."

3                               **V. CONCLUSION.**

4           For the foregoing reasons, and based upon the evidence set forth in this Motion, this Court  
5 should grant the relief requested by WASHINGTON MUTUAL, including a waiver of the 10-day  
6 stay pursuant to Bankruptcy Rule 4001(a)(3) and the requirements of Local Rule 9021.

7           DATED this 10<sup>th</sup> day of August, 2009.

8                               Respectfully Submitted,

9                               /s/ *Cindy Lee Stock*

10                              CINDY LEE STOCK

11                              Nevada Bar No. 803

12                              915 East Bonneville Avenue

13                              Las Vegas, Nevada 89101

14                              Attorney for Secured Creditor,

15                              WASHINGTON MUTUAL BANK  
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